

AMENDED IN SENATE APRIL 18, 2006

SENATE BILL

No. 1630

Introduced by Senator Maldonado

February 24, 2006

An act to add Section 857 to the Public Utilities Code, relating to water corporations, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1630, as amended, Maldonado. Water corporations: sale: right of first refusal.

Existing law authorizes any municipal corporation to acquire, construct, own, operate, or lease any public utility, as defined. The existing Municipal Utility District Act authorizes any public agency, as defined, together with unincorporated territory, or 2 or more public agencies, to organize and incorporate as a municipal utility district to provide inhabitants of the district with light, water, power, heat, transportation, telephone service, garbage, sewage and other specified utility works and service. The existing Public Utility District Act authorizes the formation of public utility districts and authorizes a district to acquire, construct, own, operate, or control works for supplying its inhabitants with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the disposition of garbage, sewage, or refuse matter. The Municipal Water District Law of 1911 authorizes the formation of a municipal water district.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including water corporations, as defined. The existing Public Utilities Act requires a public utility to

obtain commission approval prior to selling, leasing, assigning, mortgaging, or otherwise disposing of or encumbering any property, in whole or in part, necessary or useful in the performance of its duties to the public. The act additionally prohibits any person or corporation from acquiring or controlling, directly or indirectly, any public utility organized and doing business in this state, without first securing authorization to do so from the commission.

This bill would provide that a municipal corporation, municipal utility district, public utility district, or municipal water district organized to provide utility service in the County of Monterey has a right of first refusal to acquire any water corporation providing water service in the county, in any sale, lease, assignment, or other disposition requiring approval by the commission. The bill would require the commission to ensure that reasonable notice is provided to the public in the county and to any municipal corporation, municipal utility district, public utility district, or municipal water district organized to provide utility service in the county that requests notice, of a pending request to approve the sale, lease, assignment, or other disposition of a water corporation providing service in the county, prior to the commission's approval. *The bill would require an entity having a right of first refusal to exercise that right within 120 days of receiving notice of a pending request to approve the sale.* The bill would provide that because of unique circumstances applicable to water service in the County of Monterey, a statute of general applicability cannot be enacted.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 857 is added to the Public Utilities
- 2 Code, to read:
- 3 857. (a) An entity organized to provide utility service in the
- 4 County of Monterey pursuant to Division 5 (commencing with
- 5 Section 10001), Division 6 (commencing with Section 11501), or
- 6 Division 7 (commencing with Section 15501), or organized
- 7 pursuant to the Municipal Water District Law of 1911 (~~Div. 20~~
- 8 ~~(commencing with Sec. 71000), Wat. C.)~~ (Division 20

1 (*commencing with Section 71000*) of the Water Code), shall have
2 a right of first refusal to acquire any water corporation providing
3 water service in the County of Monterey, in any sale, lease,
4 assignment, or other disposition required to be approved by the
5 commission pursuant to this article. The

6 (b) The commission shall ensure that reasonable notice is
7 provided to the public in the County of Monterey and to any
8 entity requesting notice claiming to have a right of first refusal
9 pursuant to this section, of a pending request to approve the sale,
10 lease, assignment, or other disposition of a water corporation
11 providing service in Monterey County, prior to the commission's
12 approval pursuant to this article.

13 (c) *An entity having a right of first refusal pursuant to*
14 *subdivision (a) shall exercise that right within 120 days of*
15 *receipt of notice pursuant to subdivision (b).*

16 SEC. 2. The Legislature finds and declares that, because of
17 unique circumstances applicable to water service in the County
18 of Monterey, a statute of general applicability cannot be enacted
19 within the meaning of subdivision (b) of Section 16 of Article IV
20 of the California Constitution. Therefore, this special statute is
21 necessary.

22 SEC. 3. This act is an urgency statute necessary for the
23 immediate preservation of the public peace, health, or safety
24 within the meaning of Article IV of the Constitution and shall go
25 into immediate effect. The facts constituting the necessity are:

26 Because of the impending sale of a water corporation in the
27 County of Monterey that would be subject to the right of first
28 refusal established by this act, it is necessary that this act take
29 effect immediately.